UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/726,009	11/29/2000	Leland James Wiesehuegel	AUS9-2000-0738-US1	9657

45993   7590   12/11/2008
IBM CORPORATION (RHF)
C/O ROBERT H. FRANTZ
P. O. BOX 23324
OKLAHOMA CITY, OK 73123

EXAMINER
GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
3696	

MAIL DATE	DELIVERY MODE
12/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	**Applicant(s)**
Office Action Summary	09/726,009	WIESEHUEGEL ET AL.
	Examiner	**Art Unit**	
	Clement B. Graham	3696	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 November 2008</u>.

2a)☒ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>13-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>13-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

11/07/08 has been entered.

2.   Claims 13-21 remained pending.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness
rejections set forth in this Office action: (a) A patent may not be obtained though the invention is not
identically disclosed or described as set forth in section 102 of this title, if the differences between the
subject matter sought to be patented and the prior art are such that the subject matter as a whole would
have been obvious at the time the invention was made to a person having ordinary skill in the art to which
said subject matter pertains. Patentability shall not be negatived by the manner in which the invention
was made.

5.   The factual inquiries set forth in Graham v. John Deere Co., 148 USPQ 459, that are applied for
establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as
follows:

        1. Determining the scope and contents of the prior art.
        2. Ascertaining the differences between the prior art and the claims at issue.
        3. Resolving the level of ordinary skill in the pertinent art.
        4. Considering objective evidence present in the application indicating obviousness or
unobviousness.

6. Claims 13-21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et

al(Hereinafter Miller U.S. Patent No: 5, 640, 569) in view of Goldberg et al (Hereinafter

Goldberg U. S. Patent 6, 985, 885).

        As per claim 13, Miller discloses a sealed bid sales offering system in a computer

network, said computer network enabling communications between said sales offering system

and trader consoles, said offering system comprising:

a bid database in a network computer arrangement containing collected bids, said database being

accessible and query by said sales offering system, said collected bids each having an associated

seal status indication field for indicating whether is bid is a sealed bid or an unsealed bid(see

column 2 lines 13-26 and lines 68-67 and column 3 lines 1-2 and column 4-6 lines 1-67)

a database query server communicative to said computer-readable bid database for querying said bid repository for bids which match parameters of a Broker Profile Matrix associated with a trader and which are indicated as being unsealed by said seal status indication field, said trader representing a intermediary third party between a bidder and an offer, a transfer prevent or configured to prevent transfer of sealed bids from said computer-readable bid repository to a trader responsive to said database query(see column 2 lines 13-26 and lines 68-67 and column 3 lines 1-2 and column 4-6 lines 1-67).

Miller fails to explicitly teach Miller fails to explicitly teach presenting via a computer user interface matching unsealed bids to a trader with whom said Broker Profile Matrix is associated.

However Goldberg discloses executed by the server's CPU. These control programs may be stored in system memory. In a typical implementation, the programs stored in system memory may include: an operating system; a file handling system; a set of user interface procedures, for handling input from user interface and for displaying output to the user on display; one or more application programs; a security module for securely transmitting and receiving data to and from network display, and/or disk drives and ; an auction control module, discussed in more detail below, for managing an online auction, preferably including modules for transmitting information to bidders; receiving bids; evaluating bids to identify winners and losers; making copies of digital content and transmitting those copies to the winning bidders; obtaining and processing payments from the bidders; recording and analyzing bid distributions; allowing the auctioneer to select the auction mechanism to be used; and responding to auctioneer and/or bidder queries regarding the nature of the auction(see column 6 lines 31-65).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Miller to include presenting via a computer user interface matching unsealed bids to a trader with whom said Broker Profile Matrix is associated taught by Goldberg in order to price or sell goods or services using randomized sampling and auction techniques.

As per claim 14, Miller discloses wherein said sales offering system is a computer network server (see column 2 lines 13-26 and lines 68-67 and column 3 lines 1-2 and column 4-6 lines 1-67).

As per claim 15, Miller discloses wherein said computer network server is an Internet

server (see column 2 lines 13-26 and lines 68-67 and column 3 lines 1-2 and column 4-6 lines 1-67).

As per claim 16, Miller discloses wherein said computer network server is a Hyper Text Transfer Protocol (HTTP) server (see column 2 lines 13-26 and lines 68-67 and column 3 lines 1-2 and column 4-6 lines 1-67).

As per claim 17, Miller discloses wherein said sales offering system is adapted for communications with trader console computers which are web browser devices. (see column 2 lines 13-26 and lines 68-67 and column 3 lines 1-2 and column 4-6 lines 1-67).

As per claim 18, Miller discloses wherein said database query server is adapted to retrieve unsealed bids from said bid database for presentation to a trader which meet criteria including a match with a trader's location code (see column 2 lines 13-26 and lines 68-67 and column 3 lines 1-2 and column 4-6 lines 1-67).

As per claim 19, Miller discloses wherein said database query server is adapted to retrieve unsealed bids from said bid database for presentation to a trader which meet criteria including a match with a trader's goods category code (see column 2 lines 13-26 and lines 68-67 and column 3 lines 1-2 and column 4-6 lines 1-67).

As per claim 20, Miller discloses further comprising a restricted access administrator console communicative with said bid database for allowing conversion of sealed bids to unsealed bids (see column 2 lines 13-26 and lines 68-67 and column 3 lines 1-2 and column 4-6 lines 1-67).

As per claim 21, Miller discloses further comprising a system clock or timer for use by said database query server communicative to determine which seals of sealed bids have expired as a criteria for retrieving unsealed bids (see column 2 lines 13-26 and lines 68-67 and column 3 lines 1-2 and column 4-6 lines 1-67).

Conclusion
RESPONSE TO ARGUMENTS

6. response to argument's filed 11/07/08 has been fully considered but they are not persuasive for the following reasons.

7.   In response to Applicant's arguments that Miller fail to teach or suggest" a bid
database in a network computer arrangement containing collected bids, said database being
accessible and query by said sales offering system, said collected bids each having an associated
seal status indication field for indicating whether is bid is a sealed bid or an unsealed bid a
database query server communicative to said computer-readable bid database for querying said
bid repository for bids which match parameters of a Broker Profile Matrix associated with a
trader and which are indicated as being unsealed by said seal status indication field, said trader
representing a intermediary third party between a bidder and an offer, a transfer prevent or
configured to prevent transfer of sealed bids from said computer-readable bid repository to a
trader responsive to said database query" the examiner disagrees with Applicant's because the
limitations were addressed within a combinations of teachings as stated.

  Miller discloses a bid database in a network computer arrangement containing collected bids,
said database being accessible and query by said sales offering system, said collected bids each
having an associated seal status indication field for indicating whether is bid is a sealed bid or an
unsealed bid(see column 2 lines 13-26 and lines 68-67 and column 3 lines 1-2 and column 4-6
lines 1-67) a database query server communicative to said computer-readable bid database for
querying said bid repository for bids which match parameters of a Broker Profile Matrix
associated with a trader and which are indicated as being unsealed by said seal status indication
field, said trader representing a intermediary third party between a bidder and an offer, a transfer
prevent or configured to prevent transfer of sealed bids from said computer-readable bid
repository to a trader responsive to said database query(see column 2 lines 13-26 and lines 68-67
and column 3 lines 1-2 and column 4-6 lines 1-67).
However Goldberg discloses executed by the server's CPU. These control programs may be
stored in system memory. In a typical implementation, the programs stored in system memory
may include: an operating system; a file handling system; a set of user interface procedures, for
handling input from user interface and for displaying output to the user on display; one or more
application programs; a security module for securely transmitting and receiving data to and from
network display, and/or disk drives and ; an auction control module, discussed in more detail
below, for managing an online auction, preferably including modules for transmitting
information to bidders; receiving bids; evaluating bids to identify winners and losers; making

copies of digital content and transmitting those copies to the winning bidders; obtaining and processing payments from the bidders; recording and analyzing bid distributions; allowing the auctioneer to select the auction mechanism to be used; and responding to auctioneer and/or bidder queries regarding the nature of the auction(see column 6 lines 31-65).

Therefore it obviously clear that Applicant "s claimed limitations were addressed with the teachings of Miller and Goldberg.

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B. Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frantzy Poinvil/
Primary Examiner, Art Unit 3696

CG
Dec 6, 2008